

FACT SHEET

Americans with Disabilities Act - Title III enforcement procedures (Public Law 101-336)

Title III of the Americans with Disabilities Act (ADA) covers privately-owned places of public accommodation.

When do the ADA's public accommodation provisions become effective?

The ADA requirements become effective on January 26, 1992, generally.

New facilities designed and constructed for first occupancy later than January 26, 1993, must be accessible.

There is no grace period for small businesses. Small businesses, however, do enjoy limited protection from lawsuits. Except with respect to new construction and alterations, lawsuits may be filed after

- July 26, 1992, against businesses with 25 or fewer employees and gross receipts of \$1 million or less; and
- January 26, 1993, against businesses with ten or fewer employees and gross receipts of \$500,000 or less.

How is Title III enforced?

The ADA establishes the following two avenues for enforcement of the requirements of Title III:

- private lawsuits by individuals who are being subjected to discrimination or who have reasonable grounds for believing that they are about to be subjected to discrimination; and
- lawsuits by the Department of Justice, whenever it has reasonable cause to believe that there is a pattern or practice of discrimination, or discrimination that raises an issue of general public importance. The Department will investigate complaints and conduct compliance reviews of covered entities.

There is no provision for state or local civil rights agencies to directly enforce Title III of the ADA.

What are the remedies available?

Remedies available in a private lawsuit may include a permanent or temporary injunction, restraining order, or other order, but not compensatory or punitive monetary damages or civil penalties. In the case of violations of the requirements for readily achievable barrier removal or for accessible new construction and alterations, remedies to correct a violation may, as appropriate, include an order to alter the facilities that do not meet the requirements of the Act to make them readily accessible to and usable by individuals with disabilities. Also, the remedies may include requiring the provision of an auxiliary aid or service, modification of a policy, or provision of alternative methods of barrier removal.

Remedies available in civil actions brought by the Department of Justice include those available in an action brought by an individual, such as an order granting temporary, preliminary, or permanent relief; requiring that facilities be made readily accessible to and usable by individuals with disabilities; requiring provision of an auxiliary aid or service; or modification of a policy, practice, or procedure.

In addition, in a lawsuit brought by the Department, the court may award other appropriate relief, including, if requested by the Department, monetary damages to individual victims of discrimination. Monetary damages do not include punitive damages. They do include, however, all forms of compensatory damages, including out-of-pocket expenses and damages for pain and suffering.

Also, to vindicate the public interest, the court may assess a civil penalty against the covered entity in an amount

- not exceeding \$50,000 for a first violation, and
- not exceeding \$100,000 for any subsequent violation.

The prevailing party (other than the United States) in any action or administrative proceeding under the Act may recover attorney's fees in addition to any other relief granted. The "prevailing party" is the party that is successful and may be either the complainant (plaintiff) or the covered entity against which the action is brought (defendant). The defendant, however, may not recover attorney's fees unless the court finds that the plaintiff's action was frivolous, unreasonable, or without foundation, although it does not have to find that the action was brought in subjective bad faith.

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